



Sen. Toi W. Hutchinson

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LRB096 20396 RLC 38984 a

1 AMENDMENT TO SENATE BILL 3269

2 AMENDMENT NO. _____. Amend Senate Bill 3269 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Sexual Assault Evidence Submission Act.

6 Section 5. Definitions. In this Act:

7 "Department" means the Department of State Police or
8 Illinois State Police.

9 "Law enforcement agencies" means local, county, State or
10 federal law enforcement agencies involved in the investigation
11 of sexual assault cases in Illinois.

12 "Sexual assault evidence" means evidence collected in
13 connection with a sexual assault investigation, including, but
14 not limited to, evidence collected using the State Police
15 Evidence Collection Kits.

1 Section 10. Submission of evidence. Law enforcement
2 agencies that receive sexual assault evidence in connection
3 with the investigation of a criminal case on or after the
4 effective date of this Act must submit evidence from the case
5 within 10 business days of receipt to a Department of State
6 Police forensic laboratory or a laboratory approved and
7 designated by the Director of State Police. Sexual assault
8 evidence received by a law enforcement agency within 30 days
9 prior to the effective date of this Act shall be submitted
10 pursuant to this Section.

11 Section 15. Analysis of evidence. All sexual assault
12 evidence submitted pursuant to Section 10 of this Act on or
13 after the effective date of this Act shall be analyzed within 6
14 months after receipt of all necessary evidence and standards by
15 the State Police Laboratory or other designated laboratory if
16 sufficient staffing and resources are available.

17 Section 20. Inventory of evidence. By October 15, 2010,
18 each Illinois law enforcement agency shall provide written
19 notice to the Department of State Police, in a form and manner
20 prescribed by the Department, stating the number of sexual
21 assault cases in the custody of the law enforcement agency that
22 have not been previously submitted to a laboratory for
23 analysis. Within 180 days after the effective date of this Act,
24 appropriate arrangements shall be made between the law

1 enforcement agency and the Department of State Police, or a
2 laboratory approved and designated by the Director of State
3 Police, to ensure that all cases that were collected prior to
4 the effective date of this Act and are, or were at the time of
5 collection, the subject of a criminal investigation, are
6 submitted to the Department of State Police, or a laboratory
7 approved and designated by the Director of State Police. By
8 February 15, 2011, the Department of State Police shall submit
9 to the Governor, the Attorney General, and both houses of the
10 General Assembly a plan for analyzing cases submitted pursuant
11 to this Section. The plan shall include but not be limited to a
12 timeline for completion of analysis and a summary of the
13 inventory received, as well as requests for funding and
14 resources necessary to meet the established timeline. Should
15 the Department determine it is necessary to outsource the
16 forensic testing of the cases submitted in accordance with this
17 Section, all such cases will be exempt from the provisions of
18 subsection (n) of Section 5-4-3 of the Unified Code of
19 Corrections.

20 Section 25. Failure of a law enforcement agency to submit
21 the sexual assault evidence. The failure of a law enforcement
22 agency to submit the sexual assault evidence collected on or
23 after the effective date of this Act within 10 business days
24 after receipt shall in no way alter the authority of the law
25 enforcement agency to submit the evidence or the authority of

1 the Department of State Police forensic laboratory or
2 designated laboratory to accept and analyze the evidence or
3 specimen or to maintain or upload the results of genetic marker
4 grouping analysis information into a local, state, or national
5 database in accordance with established protocol.

6 Section 30. Required certification. Each submission of
7 sexual assault evidence submitted for analysis pursuant to this
8 Act shall be accompanied by the following signed certification:

9 "This evidence is being submitted by (name of investigating
10 law enforcement agency) in connection with a prior or current
11 criminal investigation."

12 Section 35. Expungement. If the Department receives
13 written confirmation from the investigating law enforcement
14 agency or State's Attorney's office that a DNA record that has
15 been uploaded pursuant to this Act into a Local, State or
16 national DNA database was not connected to a criminal
17 investigation, the DNA record shall be expunged from the DNA
18 database and the Department shall, by rule, prescribe
19 procedures to ensure that written confirmation is sent to the
20 submitting law enforcement agency verifying the expungement.

21 Section 40. Failure to expunge. The failure to expunge a
22 DNA record or strictly comply with the provisions of Section 35
23 of this Act shall not be grounds for challenging the validity

1 of a database match or database information, and evidence based
2 upon or derived from the DNA record may not be excluded by a
3 court.

4 Section 45. Rules. The Department of State Police shall
5 promulgate rules that prescribe the procedures for the
6 operation of this Act, including expunging a DNA record.

7 Section 90. The Sexual Assault Survivors Emergency
8 Treatment Act is amended by changing Section 6.4 as follows:

9 (410 ILCS 70/6.4) (from Ch. 111 1/2, par. 87-6.4)

10 Sec. 6.4. Sexual assault evidence collection program.

11 (a) There is created a statewide sexual assault evidence
12 collection program to facilitate the prosecution of persons
13 accused of sexual assault. This program shall be administered
14 by the Illinois State Police. The program shall consist of the
15 following: (1) distribution of sexual assault evidence
16 collection kits which have been approved by the Illinois State
17 Police to hospitals that request them, or arranging for such
18 distribution by the manufacturer of the kits, (2) collection of
19 the kits from hospitals after the kits have been used to
20 collect evidence, (3) analysis of the collected evidence and
21 conducting of laboratory tests, (4) maintaining the chain of
22 custody and safekeeping of the evidence for use in a legal
23 proceeding, and (5) the comparison of the collected evidence

1 with the genetic marker grouping analysis information
2 maintained by the Department of State Police under Section
3 5-4-3 of the Unified Code of Corrections and with the
4 information contained in the Federal Bureau of Investigation's
5 National DNA database; provided the amount and quality of
6 genetic marker grouping results obtained from the evidence in
7 the sexual assault case meets the requirements of both the
8 Department of State Police and the Federal Bureau of
9 Investigation's Combined DNA Index System (CODIS) policies.
10 The standardized evidence collection kit for the State of
11 Illinois shall be the Illinois State Police Sexual Assault
12 Evidence Kit. A sexual assault evidence collection kit may not
13 be released by a hospital without the written consent of the
14 sexual assault survivor. In the case of a survivor who is a
15 minor 13 years of age or older, evidence and information
16 concerning the sexual assault may be released at the written
17 request of the minor. If the survivor is a minor who is under
18 13 years of age, evidence and information concerning the
19 alleged sexual assault may be released at the written request
20 of the parent, guardian, investigating law enforcement
21 officer, or Department of Children and Family Services. If the
22 survivor is an adult who has a guardian of the person, a health
23 care surrogate, or an agent acting under a health care power of
24 attorney, then consent of the guardian, surrogate, or agent is
25 not required to release evidence and information concerning the
26 sexual assault. If the adult is unable to provide consent for

1 the release of evidence and information and a guardian,
2 surrogate, or agent under a health care power of attorney is
3 unavailable or unwilling to release the information, then an
4 investigating law enforcement officer may authorize the
5 release. Any health care professional, including any
6 physician, advanced practice nurse, physician assistant, or
7 nurse, sexual assault nurse examiner, and any health care
8 institution, including any hospital, who provides evidence or
9 information to a law enforcement officer pursuant to a written
10 request as specified in this Section is immune from any civil
11 or professional liability that might arise from those actions,
12 with the exception of willful or wanton misconduct. The
13 immunity provision applies only if all of the requirements of
14 this Section are met.

15 (a-5) (Blank). ~~All sexual assault evidence collected using~~
16 ~~the State Police Evidence Collection Kits before January 1,~~
17 ~~2005 (the effective date of Public Act 93-781) that have not~~
18 ~~been previously analyzed and tested by the Department of State~~
19 ~~Police shall be analyzed and tested within 2 years after~~
20 ~~receipt of all necessary evidence and standards into the State~~
21 ~~Police Laboratory if sufficient staffing and resources are~~
22 ~~available. All sexual assault evidence collected using the~~
23 ~~State Police Evidence Collection Kits on or after January 1,~~
24 ~~2005 (the effective date of Public Act 93-781) shall be~~
25 ~~analyzed and tested by the Department of State Police within~~
26 ~~one year after receipt of all necessary evidence and standards~~

1 ~~into the State Police Laboratory if sufficient staffing and~~
2 ~~resources are available.~~

3 (b) The Illinois State Police shall administer a program to
4 train hospitals and hospital personnel participating in the
5 sexual assault evidence collection program, in the correct use
6 and application of the sexual assault evidence collection kits.
7 A sexual assault nurse examiner may conduct examinations using
8 the sexual assault evidence collection kits, without the
9 presence or participation of a physician. The Department shall
10 cooperate with the Illinois State Police in this program as it
11 pertains to medical aspects of the evidence collection.

12 (c) In this Section, "sexual assault nurse examiner" means
13 a registered nurse who has completed a sexual assault nurse
14 examiner (SANE) training program that meets the Forensic Sexual
15 Assault Nurse Examiner Education Guidelines established by the
16 International Association of Forensic Nurses.

17 (Source: P.A. 95-331, eff. 8-21-07; 95-432, eff. 1-1-08;
18 96-318, eff. 1-1-10.)

19 Section 99. Effective date. This Act takes effect September
20 1, 2010."